

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DERRICK J. SIMS,
Plaintiff,

v.

RALPH DIAZ, et al.,
Defendants.

Case No. [19-cv-05445-SI](#)

**ORDER DENYING MOTION FOR
RECONSIDERATION OF DENIAL OF
PRELIMINARY INJUNCTION**

Re: Dkt. No. 17

Plaintiff has filed a motion for reconsideration (Docket No. 17) of the order denying his request for a preliminary injunction (Docket No. 9). Plaintiff essentially asks the court to take a second look at some of the evidence he submitted in support of his request for a preliminary injunction because he does not think the court looked at the evidence carefully enough. Plaintiff is not entitled to relief because does not show a material difference in fact or law exists from that which was presented to the court before entry of the order denying the request for preliminary injunction; does not show the emergence of new material facts or a change of law occurring after the time of such order; and does not show a manifest failure by the court to consider material facts which were presented to the court before such interlocutory order. *See* Civil L.R. 7-9(b). Instead, his motion shows nothing more than a disagreement with the court's conclusion that he was not entitled to interim relief.

Plaintiff claims in this action that he was under threat from some other inmates in a security threat group and was attacked three times, with the most recent attack occurring more than a year before he filed this action. Prison officials have different options as to how they will protect an inmate in danger of attack, so it does not necessarily follow that a threat plus an attack necessarily means that any particular prison official has been deliberately indifference to the attacked inmate's

1 safety. Here, the fact that it has now been more than eighteen months since the most recent attack
2 on plaintiff suggests that prison officials have found a way to protect plaintiff in his current facility
3 and are not currently acting with deliberate indifference to his safety. He has not shown his
4 entitlement to interim relief. *See Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668,
5 674 (9th Cir. 1988) (“A plaintiff must do more than merely allege imminent harm sufficient to
6 establish standing; a plaintiff must *demonstrate* immediate threatened injury as a prerequisite to
7 preliminary injunctive relief.”) The motion for reconsideration of the denial of the request for a
8 preliminary injunction is DENIED. Docket No. 17. No further motions for reconsideration of the
9 order denying the request for preliminary injunction or this order may be filed.

10 **IT IS SO ORDERED.**

11 Dated: March 3, 2020



SUSAN ILLSTON
United States District Judge